

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORTH WORTH DIVISION

ERIC JACKSON, *et al.*,

*Plaintiffs,*

v.

ALEJANDRO N. MAYORKAS,  
Secretary of Homeland Security, *et al.*,

*Defendants.*

Case No. 4:22-cv-0825-P

**DEFENDANTS' NOTICE OF LEGISLATIVE DEVELOPEMENTS**

Defendants respectfully provide this notice of recent legislative developments that will significantly impact this case, including Plaintiffs' pending motions for class certification and for a class-wide preliminary injunction.

Plaintiffs are three members of the United States Coast Guard who sued Defendants, officials with the Department of Defense and the Department of Homeland Security, challenging a military readiness requirement that they be vaccinated against COVID-19. Plaintiffs have moved for class certification and for a class-wide preliminary injunction, raising arguments under the Religious Freedom Restoration Act ("RFRA") and the Free Exercise Clause of the First Amendment. ECF No. 4. Defendants opposed the motions, ECF No. 30, which have been fully briefed since Plaintiffs filed their reply on October 14, 2022, ECF No. 38. In addition, the Court directed the parties to file briefs on whether this case should be transferred to another venue, ECF no. 26, which the parties did on October 10, 2022, ECF Nos. 32, 37.

On December 23, 2022, the President signed the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (“NDAA”).<sup>1</sup> The NDAA contains a provision that requires the Secretary of Defense to rescind the military’s COVID 19 vaccination policy within 30 days.<sup>2</sup> It states:

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall rescind the mandate that members of the Armed Forces be vaccinated against COVID-19 pursuant to the memorandum dated August 24, 2021, regarding “Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members.”

Although the Coast Guard is part of the Department of Homeland Security and not the Department of Defense, the Coast Guard has been and intends to remain aligned with the Department of Defense regarding COVID-19 vaccination policy. Therefore, the NDAA legislation, as a practical matter, will substantially affect Plaintiffs’ claims challenging the Coast Guard’s vaccination mandate. Plaintiffs’ statement in their recent notice of supplemental authority that “the relevant NDAA provision does not even apply to the Coast Guard,” ECF No. 52 at 2, is therefore misleading. Plaintiffs are also incorrect that “there is not real indication that separations will cease” with respect to the vaccination mandate. In fact, in anticipation of the NDAA, the Coast Guard has paused separations due to vaccination status until January 15, 2023. The Coast Guard has separately provided several assurances to Plaintiffs’ counsel about pauses to separations as detailed

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<sup>1</sup> See <https://www.whitehouse.gov/briefing-room/statements-releases/2022/12/23/statement-by-the-president-on-h-r-7776-the-james-m-inhofe-national-defense-authorization-act-for-fiscal-year-2023/>.

<sup>2</sup> The full text of the legislation is available on the website of the House Committee on Rules: <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR7776EAS-RCP117-70.pdf>. The provision directing the rescission of the military’s COVID-19 vaccination requirement is at Section 525.

in the multiple status reports that Plaintiffs have filed with the Court. *See* ECF Nos. 25, 44, 47, and 51.

Defendants will continue to provide the Court with further updates on the NDAA and relevant changes to Coast Guard policy made in connection therewith.

Dated: December 23, 2022

Respectfully submitted,

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